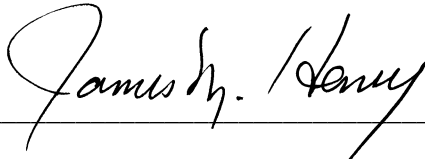
	<b>POLICIES AND PROCEDURES</b>  <b>State of Tennessee</b> <b>Department of Intellectual and Developmental Disabilities</b>	<b>Policy #: 80.2.1</b>	<b>Page 1 of 9</b>
<b>Policy Type: DIDD Public Intermediate Care Facilities for Persons with Intellectual Disabilities</b>		<b>Effective Date: August 3, 2012</b>	
<b>Approved by:</b>  <b>Commissioner</b>		<b>Supersedes: P-103</b>  <b>Last Review or Revision: July 26, 2012</b>	
<b>Subject: Abuse Neglect Prevention Committee</b>			

- I. **AUTHORITY:** Tennessee Code Annotated (TCA) 33-3-103, TCA 33-1-203 (5), TCA 33-1-305 (3), and 33-2-402 (1), (8) and (9) and TCA 4-3-2703.
  
- II. **PURPOSE:** The purpose of this policy is to clarify the structure, function, and mission of the Abuse Neglect Prevention Committee (ANPC) which advocates for and protects the rights, well-being, and quality of life for persons supported by the Department of Intellectual and Developmental Disabilities (DIDD). This includes persons who reside in DIDD Public Intermediate Care Facilities for persons with Intellectual Disabilities (ICFs-ID), formerly Intermediate Care Facilities for persons with Mental Retardation (ICFs-MR), Class Members for whom DIDD is responsible who reside in Private ICFs-ID and persons supported through the Home and Community Based Waiver (HCBS).
  
- III. **APPLICATION:** This policy applies to the Abuse Neglect Prevention Committees established by the Department of Intellectual and Developmental Disabilities.
  
- IV. **DEFINITIONS:**
  - A. **Abuse** shall mean the knowing infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. The subcategories of abuse shall include:
    1. **Emotional/psychological abuse** includes, but not limited to, humiliation, harassment, threats of punishment or deprivation, and intimidation towards persons served; the use of oral, written, or gestured language that is demeaning or derogatory to persons with intellectual or developmental disabilities when it is directed to the person served or within eyesight or audible range of the person-supported, and may cause the person-supported physical harm, pain, or mental anguish.
    2. **Physical abuse** includes, but is not limited to any physical motion or action (e.g., hitting, slapping, punching, kicking, pinching, regardless of evidence of physical injury) by which bodily harm, pain or mental anguish may occur to the person-supported. It includes the use of corporal punishment as well as the use of any restrictive, intrusive procedure to control challenging behavior or for purposes of punishment; or take downs or prone restraint of any duration.

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3. **Sexual Abuse** includes, but is not limited to, any type of sexual activity between a person-supported and a staff person, or anyone affiliated through DIDD as a contracted entity or volunteer. Prohibited sexual activity includes, but is not limited to, actions whereby a person-supported is forced, tricked, threatened, or otherwise coerced into sexual activity; or is exposed to sexually explicit material or language unless otherwise specified in a plan; or has any contact with sexual intent. Sexual abuse occurs whether or not a person-supported is able to give consent to such sexual activities.
- B. **Abuse Neglect Prevention Committee (ANPC)** shall mean the committee charged with (a) reviewing DIDD Office of Investigation Report summaries, Incident Management Analysis Reports, and other records; (b) making recommendations for systemic change based on review of incidents and/or trends related to abuse, neglect, exploitation, or any other activity or circumstance that is detrimental to individuals served and supported by DIDD or its providers; and (c) submitting such recommendations to the DIDD Commissioner, to the appropriate Regional Director and ICF-ID Director/Chief Officer, as applicable, and to the contracting provider.
  - C. **Class Member** shall mean an individual meeting the requirements in the definition of the class specified in *People First of Tennessee, et. al. v. Clover Bottom Developmental Center*; or *United States of America v. State of Tennessee, et. al. Arlington Developmental Center*. This includes persons who resided in Arlington Developmental Center, Clover Bottom Developmental Center, Green Valley Developmental Center, Harold Jordan Center, or Nat T. Winston Developmental Center during the specified times and persons who have been formally determined by DIDD to be a Class Member due to being “at risk of being placed at Arlington Developmental Center” based on the class definition specified in *People First v. Arlington Developmental Center*.
  - D. **Exploitation** shall mean actions including but not limited to the deliberate misplacement, misappropriation or wrongful, temporary or permanent use of belongings or money with or without the person’s consent. DIDD also considers it exploitation to illegally or improperly use a person or person’s resources for another’s profit or advantage..
  - E. **Home and Community Based Services (HCBS) Waiver or Waiver** shall mean a waiver approved for Tennessee by the Centers for Medicare and Medicaid Services to provide services to a specified number of Medicaid eligible individuals who have an intellectual disability and who meet criteria for Medicaid criteria of reimbursement in an Intermediate Care Facility for People with Intellectual Disabilities. The HCBS waivers for people with Intellectual Disabilities in Tennessee are operated by the Department of Intellectual Disabilities with oversight from TennCare, the state Medicaid agency.
    1. Home and Community-Based Services Waiver for the Mentally Retarded and Developmentally Disabled (#0128.R04.01) and any amendments thereto;
    2. Home and Community-Based Services Waiver for Persons with Mental Retardation (#0357.R02.01) and any amendments thereto; and
    3. Tennessee Self-Determination Waiver Program (#0427.R01.03) and any amendments thereto.

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- F. **Health Insurance Portability and Accountability Act (HIPAA)** shall mean Health Information Portability and Accountability Act (HIPAA): A Federal law enacted by the United States Congress in 1996 to address the security and privacy of health data.
- G. **Incident** shall mean any event which involves harm or significant risk of harm to a person-supported.
- H. **Injury** shall mean any physical trauma sustained by a person-supported.
- I. **Neglect** shall mean failure to provide goods or services necessary to avoid physical harm, mental anguish or mental illness, which results in injury or probable risk of serious harm. Neglect towards a person-supported includes being on duty while impaired or under the influence of illegal substances or prescription drugs without a valid current prescription for the drug. If a staff person has a valid current prescription for a drug and is impaired while on duty from the prescription drug, this too shall be considered neglect.
- J. **Public Intermediate Care Facility for Persons with Intellectual Disabilities (ICF-ID)** shall mean Department of Intellectual and Developmental Disabilities (DIDD) operated state owned facilities for persons with intellectual disabilities.
- K. **Private Intermediate Care Facility for Persons with Intellectual Disabilities (ICF-ID)** shall mean facilities for persons with intellectual disabilities that are owned and operated by entities other than the state.
- L. **Regional Quality Management Committee** shall mean a group of regional DIDD staff from Administration, Compliance, Complaints, Incident Management, Investigations, Operations, Quality Assurance, and other staff with specific agency knowledge who meet on a regular basis to review provider performance issues identified and determine the need and frequency for Agency Team follow-up. The Committee makes a determination regarding the frequency of agency team contact based on the nature, severity, scope and duration of provider performance issues identified. Agency teams report the status of corrective plan implementation and quality/compliance improvements to the Regional Quality Management Committee in subsequent Quality Management meetings.
- M. **Serious injury** shall mean a reportable incident that includes any physical harm to a person-supported whether the injury is self-inflicted or inflicted by another person, whether the injury is accidental or not, and whether the cause of the injury is known or unknown. Assessment and treatment for a serious injury is in a hospital emergency room, in an urgent care center or from a physician, nurse practitioner or physician's assistant. (Treatment for a serious injury is beyond basic first aid that could be administered by a lay person.) Serious injury includes, but is not limited to, fracture, dislocation, traumatic brain injury (concussion), laceration requiring sutures (or Dermabond when used in place of sutures/staples), torn ligaments, second and third degree burns, or loss of consciousness. Other types of injuries such as bruises, abrasions, sprains and muscle strains can rise to the level of serious injury if they are diagnosed as serious or severe by a Health Care Professional.

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- N. State Quality Management Committee shall mean a group of statewide DIDD staff from Administration, Audit, Compliance, Complaints, Incident Management, Investigations, Legal, Operations, Quality Assurance, and other DIDD staff with specific agency knowledge who meet on a regular basis to review provider performance issues identified and determine the appropriate agency follow-up. The Committee makes a determination based on the nature, severity, scope and duration of provider performance issues identified.
- V. **POLICY:** DIDD shall establish ANPCs in every Region for the purpose of making recommendations to DIDD for systemic change related to abuse, neglect, exploitation, or any other activity or circumstance that is detrimental to persons served and supported by DIDD or DIDD providers.
- VI. **PROCEDURES:**
- A. Establishment of Abuse Neglect Prevention Committees (ANPC)
- Each DIDD region shall have a Regional ANPC to review summaries of all Investigation Reports with the Social Security Number (SSN) redacted, Incident Management Analysis Reports, and other records for the purpose of making recommendations to DIDD for systemic change related to abuse, neglect, exploitation, or any other activity or circumstance that is detrimental to persons served and supported by DIDD or DIDD providers. The ANPC shall submit such recommendations to the DIDD Commissioner, appropriate DIDD Regional Director, Public ICF-ID Director/Chief Officer, and DIDD Protection from Harm (PFH) Director.
- B. Committee Membership
1. The ANPC shall include:
    - a. A consumer advocate;
    - b. A physician or registered nurse;
    - c. A DIDD human resources representative;
    - d. A parent, guardian, or conservator of a person-supported;
    - e. A direct care staff worker who has no history of substantiation for abuse, neglect, or exploitation;
    - f. The DIDD Lead Investigator for the applicable region; and
    - g. Up to five (5) additional members who may be appointed at the discretion of the chairperson.

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2. Qualifications of ANPC Members

Committee members shall have experience working with or in the field of developmental disabilities or be the family member, guardian, or conservator of a person-supported who has an intellectual disability. Committee members must be willing to learn data analysis techniques that will help in identifying problems that lead to abuse, neglect, and exploitation and, based on review of the broad implications of data, make recommendations for systemic changes.

3. Appointment of ANPC Members

Members of the Regional ANPC shall be appointed by the applicable Regional Director.

4. Terms of Appointment

ANPC members shall be appointed to serve for a period of three (3) years. An ANPC member shall not serve for two (2) consecutive three (3)-year terms; however, a former ANPC member can be reappointed after an absence of one (1) year.

5. Replacement of ANPC members

The appointing authority may replace a committee member for failure to attend three consecutive ANPC meetings.

6. Selection of the Chairperson

The chairperson of the Regional ANPC shall be selected from among the ANPC members and shall serve a term for a period of one (1) year. An ANPC member may serve as chairperson for a maximum of two (2) consecutive one (1) year terms, but may not serve again as the Chairperson until an interval of two (2) years has expired. If the chairperson of the ANPC is not a state employee; a state employee shall be designated to serve as the DIDD liaison to the chairperson.

C. Frequency of Meetings

1. The ANPC shall meet once per month.

2. A subcommittee or "ad-hoc" committee meeting may be requested at any time by the chairperson when enough members can be present to constitute a quorum.

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**D. Quorum**

A quorum shall consist of five (5) or more ANPC members in accordance with the following:

1. A quorum for a Regional ANPC shall consist of five (5) or more members, at least two (2) of whom shall not be DIDD employees.
2. An ANPC member shall not be present during any discussion of an issue and shall not participate in any vote involving the issue if:
3. The ANPC member is directly involved in the issue under consideration; or
4. The ANPC member has personal involvement or association with the individual, the incident, or the agency involved, which would have the appearance of a conflict of interest.

**E. Records of Meetings**

1. Minutes shall be kept for each meeting in accordance with the format provided in Appendix A. The minutes of the ANPC meeting, and any other documents designated by the chairperson shall constitute the official record of the committee.
2. Copies of meeting minutes shall be distributed to:
  - a. The DIDD Commissioner;
  - b. The Regional Director in the applicable region;
  - c. The Director of Protection from Harm;
  - d. Other appropriate staff of DIDD; and
  - e. The Director/Chief Officer, where applicable.
3. The Committee may request clarification of issues identified during the meeting from the Regional Director or other appropriate DIDD staff.
4. The ANPC minutes shall include any recommendations to the Regional Director. The ANPC shall notify the Regional Director or, other appropriate DIDD staff by telephone, e-mail, fax, or other written correspondence of any serious and immediate concerns.

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5. The chairperson shall maintain a file for the ANPC including:
  - a. A roster of committee members and their appointment dates;
  - b. Records of meetings, including:
    - (1) The agenda for the meeting;
    - (2) Meeting minutes;
    - (3) List of members in attendance; and
    - (4) Actions, recommendations, and correspondence.
6. Record review, recommendations, and follow-up
  - a. Review of data
    - (1) The ANPC will review summaries of all investigations (with the SSNs redacted) that were generated in the applicable region since the last meeting.
    - (2) The ANPC shall send requests for further information on investigations or questions concerning provider performance to the Regional Director or Regional Quality Management Committee (RQMC). The regional director or chair of the RQMC will be responsible for providing the requested information to the ANPC in writing. A partial list of data sources is provided in Appendix B.
  - b. Recommendations
 

Based on the review of investigation summaries and other records, the ANPC shall make recommendations, where appropriate, involving the need for systemic changes to prevent abuse, neglect, and exploitation.

    - (1) Recommendations shall be documented in the meeting minutes.
    - (2) The ANPC shall identify a measurable objective for each recommendation. Recommendations involving statewide policy or procedural changes shall be provided to the Statewide Quality Management Committee (SQMC).
    - (3) Recommendations requiring regional responses to prevent abuse, neglect, or exploitation shall be provided to the Regional Director in the applicable region and to the Deputy Commissioner for Program Operations or designee.

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- (4) Recommendations concerning regional operations or agency performance will be made to the Regional Director or to the RQMC.
- (5) Recommendations involving other DIDD facilities shall be provided to the ICF-ID Director/Chief Officer, the appropriate Regional Director and to the Deputy Commissioner for Program Operations or designee.

c. Follow-up

- (1) Recommendations from the ANPC require a timely and appropriate response to the specific recommendation. All responses to ANPC recommendations shall be addressed in writing by the Regional Director, RQMC chair, SQMC chair and/or the ICF-ID Director/Chief Officer, as applicable, and shall be submitted to the Protection from Harm Director, with a copy forwarded to the Deputy Commissioner for Program Operations.
- (2) The ANPC shall review the responses to the recommendations and shall continue to review data as appropriate from each entity receiving recommendations.
  - (a) The ANPC Chairperson shall track recommendations and responses;
  - (b) Regional Office staff shall track the recommendations involving persons-supported in community-based services.
- (3) At the conclusion of each ANPC meeting, committee members shall identify any information that may be needed for review at the next ANPC meeting.

7. Access to Records

The ANPC shall have access to all incident reports and other documents that may reflect an abuse or neglect issue brought before the committee for review, provided the records have been appropriately redacted to exclude SSNs to ensure confidentiality

8. Confidentiality

- a. All proceedings of the ANPC involving persons-supported, including information, documents, discussion, deliberations, or actions of the ANPC, shall be treated as confidential.



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- b. Each member of the ANPC shall sign a confidentiality agreement in a format approved by DIDD, unless the member is an employee or contract employee of DIDD who has already signed a HIPAA compliant confidentiality agreement. The chairperson shall maintain a copy of each signed confidentiality agreement.
- c. The ANPC chairperson may release confidential information to the DIDD Commissioner or designee, the Regional Director or designee, or the ICF-ID Director/Chief Officer or designee. Confidential information may also be shared with the provider agency or entity that provides services to the person if provided in accordance with HIPAA related requirements.

**VII. ATTACHMENTS:**

- A. Appendix A: Abuse Neglect Prevention Committee Meeting Minutes Template
- B. Appendix B: Sources of Data for Abuse Neglect Prevention Committees